IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3372 of 2007()

AGAINST THE ORDER DATED 14/08/2007 CMP.310/2007 IN ST.122/2007 of JUDICIAL FIRST CLASS MAGISTRATE-IV, KOLLAM.

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PETITIONER: ACCUSED:

M.G. SREEJA, W/O. R. SUNIL,
PRANAVAM, CHERUSSERY BHAGOM, CHAVARA POST,
KARUNAGAPPALLY.

BY ADV. SRI.C.R.SIVAKUMAR
SMT.G.VIDYA

RESPONDENTS: COMPLAINANT:

1. K. RADHAKRISHNAN, S/O.LATE KUNJUKRISHNAN
SAROJAM VEEDU, KALAVEDI ROAD, DARAANA NAGAR,
PATTATHANAM, KOLLAM DISTRICT.

2. THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA
ERNAKULAM.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3372 of 2007

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Dated this the 12th day of November, 2007

ORDER

The petitioner is the accused in a prosecution under Section 138 of the Negotiable Instrument Act. The petitioner's application to forward the Demand Promissory Note to the expert was dismissed by the learned Magistrate. The petitioner claims to be aggrieved by that order and wants this Court to invoke the extra ordinary inherent jurisdiction under Section 482 Cr.P.C to interfere with that order.

2. The learned Magistrate had considered the prayer in detail and passed the impugned order. At this stage of proceedings the petitioner has come to this Court with a prayer to invoke the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I must alertly remind myself of the nature,quality and contours of the jurisdiction which I am called upon to invoke and exercise. The jurisdiction which is sought to be invoked is the extraordinary inherent jurisdiction available under Sec.482 Cr.P.C. It is by now trite that such jurisdiction has to be invoked sparingly and in exceptional cases only in aid of justice. Such

jurisdiction is certainly not to be invoked as a matter of course. Sufficient, satisfactory and compelling reasons must be shown to exist to persuade this Court to invoke such extraordinary inherent jurisdiction.

3. Ordinarily and normally the interlocutory orders which are passed in the course of the proceedings must wait for their challenge till final disposal of the proceedings. The law frowns upon attempts to challenge the interlocutory orders during the pendency of the prosecution. This policy of the law is clearly reflected in Sec.397(2) Cr.P.C. which proscribes revisional challenge against interlocutory orders.

4. Not that, in an exceptional case when the conscience of the Court is satisfied that the interests of justice do warrant invocation of such powers, they cannot be invoked, but certainly sufficient and satisfactory reasons must be shown to exist.

5. I am not adverting to details, but I do note that it is conceded that notice of demand under Sec.138 of the Negotiable Instrument Act had not evolved any reply in this case. The signature in the cheques is not disputed. It is the case of the complainant that the cheque was issued for discharge of liability

under demand promissory note. The petitioner wanted the said Demand Promissory Note to sent to the expert and the learned Magistrate for reasons given in the impugned order has turned down the said prayer.

6. I am not satisfied that this is a fit case where extraordinary inherent jurisdiction under Section 482 Cr.P.C can or ought to be invoked. This, I am satisfied, is a fit case where the petitioner must wait and challenge the impugned order ,if the same is necessary and advisable, along with final order to be passed in the prosecution by the learned Magistrate.

7. In the result this Crl.M.C. is dismissed. I may hasten to observe that I have not intended to express any final opinion on the disputed questions which were considered in the impugned order. I have only chosen to take the view that powers under Section 482 Cr.P.C does not deserve to be invoked at this stage against the impugned order.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE